

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

E.J. MCELROY, a.k.a. EIBON
MCELROY, a.k.a. LATWAHN
MCELROY, a.k.a. LATHWAHN
MCELROY,

Plaintiff,

v.

GUZMAN, *et al.*,

Defendants.

Case No. 1:25-cv-00748-JLT-BAM (PC)

ORDER GRANTING IN PART PLAINTIFF'S
MOTION TO ENLARGE TIME

(ECF No. 16)

TWENTY-ONE DAY DEADLINE

Plaintiff is a state prisoner proceeding *pro se* in this civil rights action under 28 U.S.C. § 1983. On June 26, 2025, the then-assigned magistrate judge issued findings and recommendations that Plaintiff's application to proceed *in forma pauperis* be denied pursuant to 28 U.S.C. § 1915(g) and Plaintiff be ordered to pay the \$405.00 filing fee in full to proceed with this action. (ECF No. 9.) On August 12, 2025, the District Judge adopted the findings and recommendations in full and ordered Plaintiff to pay the \$405.00 filing fee within twenty-one days to proceed with this action. (ECF No. 12.)

On September 8, 2025, the then-assigned magistrate judge granted Plaintiff's request for a thirty-day extension of time to pay the filing in full. (ECF No. 14.) The magistrate judge cautioned Plaintiff that absent exigent circumstances, no additional extensions of time to pay the filing fee in full would be granted. The magistrate judge also cautioned Plaintiff that his failure to

1 timely pay the filing fee in full within the time allotted may result in a recommendation that this
2 matter be dismissed. (*Id.*)

3 Currently before the Court is Plaintiff's second motion for a thirty-day extension of time
4 to pay the filing fee in full, filed October 14, 2025. (ECF No. 16.) Plaintiff asserts that due to
5 "circumstances" he "is not able to make sudden payments with out necessary resources." (*Id.* at
6 1.) Plaintiff asserts that he is a qualified handicapped individual requiring additional time and
7 assistance in reading comprehension with vision impairment, who is aided via peer support. He
8 also asserts that his legal effects had been withheld at several different AdSeg/RHU at various
9 institutions since 11/25/24. Plaintiff also claims that for two weeks since 9/22/25 there has been
10 no access to the law library to gather helpful information on curing the issues and getting legal
11 supplies. Plaintiff asserts that he has not received a new tablet and "the GTL tablets has
12 shutdown its services there was no way to act fast in getting help from other contacts via tablet-
13 GTL communications." (*Id.* at 2.) Plaintiff states that he "does not have cash nor an open line
14 and would only be able to communicate his needs although the circumstance disables the current
15 due date and disable plaintiff from access he still necessitates." (*Id.*)

16 Having considered Plaintiff's request, the Court does not find the requisite exigent
17 circumstances or good cause for granting a further extension of time to pay the filing fee in this
18 action. Plaintiff has had more than two months to pay the filing fee and has failed to do so.
19 Plaintiff admits that he does not have the funds to pay the filing fee, and he provides no indication
20 that he actually expects to secure the funds in a timely manner in order to pay the fee to proceed
21 with this action. Plaintiff's inability to access his legal effects or the law library has no bearing
22 on the ability to pay the filing fee. Plaintiff cites no authority entitling him to repeated extensions
23 of time until he can acquire the necessary funds. Nevertheless, in an abundance of caution, the
24 Court will grant Plaintiff a further extension of time to pay the filing fee, but finds that an
25 extension of twenty-one days, rather than thirty, is appropriate under the circumstances.

26 Accordingly, the Court HEREBY ORDERS that:

- 27 1. Plaintiff's motion to enlarge time to pay the filing fee, (ECF No. 16), is GRANTED in
28 part;

2. Plaintiff shall pay the full amount of the \$405.00 filing fee within **twenty-one (21) days** from the date of service of this order; and
3. **The failure to comply with this order will result in dismissal of this action for failure to obey a court order and failure to pay the filing fee.**

IT IS SO ORDERED.

Dated: October 15, 2025

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE